

REMARKS

This response is provided to the Office Action of August 26<sup>th</sup>, 2004. In the Action, claims 1-73 were presented for Examination. Claims 35 and 56 were objected to for lingering informalities; claims 55 and 56 were rejected under 35 USC §112, second paragraph; claims 1-50 and 57-73 were rejected under 35 USC §102(b); and claims 51-56 were rejected pursuant to 35 USC §103(a). Applicant offers the foregoing amendments and the following remarks in full response to the outstanding Action.

With this response, Applicant has cancelled claims 16-45 and 57-73, without prejudice; amended certain other claims (as above), and has introduced new claims 74-88. Support for the amendments and new claims can be found in the original specification, figures and/or drawings and, as such, no new matter has been introduced. Accordingly, with this response, claims 1-15, 46-56 and 74-88 remain pending. In view of such amendments and the remarks, favorable reconsideration of the pending application is respectfully requested.

Objection to the Specification

In paragraphs 1 and 2 of the Action, the specification was objected to as the Abstract failed to comport with the provisions of MPEP §608.01(b). Applicant regrets this oversight and offers corrected language above (and replacement sheet, below) to overcome this objection.

In view of the foregoing amendment, Applicant respectfully requests that the objection to the Abstract be withdrawn.

Claim Objections

In paragraph 3 of the Action, informalities were identified by the Examiner in claims 35 and 56. Applicant regrets this oversight. Applicant has cancelled claim 35, without prejudice, for other reasons and has amended claim 56 in accordance with the Examiner's suggested language.

In view of such amendments, Applicant respectfully requests that the objection to claims 35 and 56 be withdrawn.

35 USC §112, second paragraph Rejection of Claims 55 and 56

In paragraphs 4 and 5 of the Action, claims 55 and 56 were rejected as failing to particularly point out and distinctly claim that which Applicant believes as his invention, according to 35 USC §112, second. In both of these claims, the concept of "a channel quality parameter" is introduced in the 1<sup>st</sup> into 2<sup>nd</sup> line of the claim.

However, with regard to claim 55, Applicant notes that there was insufficient antecedent basis for the "the value of the channel quality parameter" and "the value of the data quality parameter". Applicant regrets the oversight leading to such rejection, and has amended the claim accordingly.

With regard to claim 56, however, Applicant fails to see the lack of antecedent basis. Accordingly, Applicant requests the Examiner's indulgence in particularly pointing out the offending language.

In view of the foregoing amendments, Applicant respectfully requests that the §112, second para. rejection of claims 55 and 56 be further clarified or withdrawn.

35 USC §102(b) Rejection of Claims 1-50 and 57-73

In paragraphs 6 and 7, claims 1-50 and 57-73 were rejected in the Action as being anticipated by a patent issued to Jackson, et al. (USP 6,097,704) under 35 USC §102(b). In response, Applicant respectfully traverses the basis for such rejection.

It is well settled that in order to support a §102 rejection, the Office must establish that a single, prior art reference teaches each and every element of a claim, as such elements are presented within the rejected claim. In this case, Applicant respectfully submits that the Office has failed to establish this prima facie basis for the §102 rejection of at least claims 1-50 and 57-73.

In particular, despite the characterization in the Action, Applicant cannot find disclosed within the Jackson reference each and every element of the rejected claims, as presented in such claims. For example, Applicant cannot find support for the Action's characterization that Jackson teaches or fairly suggests at least the element of displaying the quality of the wireless transmission (see, e.g., rejected claim 1).

Insofar as the Action has failed to establish a prima facie basis for the rejection of such claims, Applicant respectfully requests that the §102(e) rejection of claims 1-15 and 46-56, as selectively amended, be withdrawn.

§103(a) Rejection of claim 51-56

In paragraphs 8 and 9 of the Action, claims 51-56 were rejected as being unpatentable over the Jackson reference pursuant to 35 USC §103(a). In response, Applicant respectfully traverses the rejection of such claims.

In rejecting claims 51-56, the Action asserts that the particular limitations of an analog meter and/or LED indicators to display a quality value is merely a design choice. However, in accordance with the argument presented above, this presupposes that the Jackson reference actually discloses or fairly suggests that a determined quality measure be displayed at all. As presented above, Applicant fails to note where in the Jackson reference the element of displaying a quality value is disclosed. It is not disclosed in the text cited in the Action.

Accordingly, Applicant respectfully submits that the Action has failed to properly establish a prima facie basis for the rejection of claim 51-56, as selectively amended, and respectfully requests that the rejection of such claims be withdrawn.

#### New Claims

As presented above, Applicant has introduced new claims 74-88. Such claims include two new claim sets, one directed to an apparatus and another directed to a system embodiments of the invention. Applicant respectfully submits that such claims are patentable over the cited references in view of the arguments presented above.

#### CONCLUSION

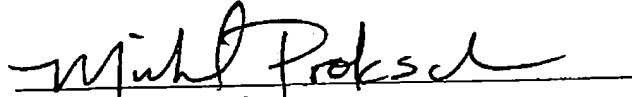
In light of at least the foregoing remarks, Applicant respectfully submits that claims 1-15, 46-56 and 74-88, as selectively amended are in condition for allowance and earnestly requests prompt notice thereof. *Applicant respectfully invites the Examiner to contact the undersigned representative for a telephone conference if it determined that such a conference could lead to allowance of one or more of the pending claims.*

Should it be determined that any additional fee is required, or overage returned, in association with this response, please debit or credit my deposit account number 50-0221 as appropriate.

Respectfully submitted,  
Robert Heath, et al.

Dated: February 28th, 2004

by:



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